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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,123	12/17/2001	Christopher Peter Olson	16,664	5031

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KIMBERLY-CLARK WORLDWIDE, INC.  
401 NORTH LAKE STREET  
NEENAH, WI 54956

EXAMINER

LAZOR, MICHELLE A

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/026,123

Applicant(s)

OLSON ET AL

Examiner

Michelle A Lazor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 3, 5, 7, 11 – 14, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitz (U.S. Patent No. 5779831) in view of Widlund et al. (U.S. Patent No. 6210388).

Regarding Claims 1, 11, and 12, Schmitz discloses a method of making an undergarment having refastenable side seams from a substantially two-dimensional web, the web having two longitudinal sides and a first lateral edge, or two lateral sides and a first longitudinal edge, depending on which is defined as a side or edge, comprising the steps of: transporting the web in a processing direction; cutting the web along a second side or edge to form a two-dimensional pre-form that includes the first and the second lateral edges and the two longitudinal edges; each longitudinal edge having two waist sections and a crotch section located intermediate the waist sections; a sealing or fastening surface located adjacent and inboard on the waist sections; gripping the pre-form adjacent each waist section with a gripping means in four gripping areas, each gripping area being located near a respective refastening surface; jointly rotating at least the gripping means which hold the gripping areas in the region of one of the lateral edges around at least one hinging axis extending substantially parallel to the lateral edges of the pre-form to place

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the first lateral edge generally parallel and opposite to the second lateral edge; superimposing the sealing or fastening surfaces in a securing means, thus forming the undergarment; and releasing the undergarment from the gripping means (column 15, lines 4 – 49); Schmitz also discloses using hook and loop material as mechanical fasteners as an alternative to overlapping seams (column 2, lines 34 – 49), but does not specifically disclose preconditioning the web to include at least four refastening surfaces. However, Widlund et al. disclose preconditioning a web to include hook and loop refastening surfaces before cutting (Figures 1, 2, and 11; column 3, lines 34 – 40; column 4, lines 33 – 40; and column 7, lines 7 – 15). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to precondition the web to include hook and loop refastening surfaces since it is well known in the art to add fasteners to the web before cutting the web into individual diapers.

Regarding Claims 2, 3, 13, and 14, Schmitz discloses the step of forming the web by combining a liquid-impervious backsheet, an absorbent core and a liquid-pervious topsheet, such that the undergarment is an absorbent article (column 15, lines 50 – 54); and wherein the pre-form includes an exterior surface and a body-contacting surface opposite the exterior surface; and the waist sections define a front waist section and a back waist section (Figure 3; column 6, lines 17 – 65).

Regarding Claim 5, Widlund et al. disclose two of the refastening surfaces located on the body-contacting surface of the front waist section and two of the refastening surfaces located on the exterior surface of the back waist section (Figures 11 and 12; column 8, lines 3 – 13).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to place two refastening surfaces on the body-contacting surface of the front waist

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section and two refastening surfaces on the exterior surface of the back waist section since it is well known and conventional to place the refastening surfaces in a number of configurations along the waist section, including placement as discussed above.

Regarding Claims 7 and 20, Schmitz disclose prior to cutting of the web, portions of the web which form adjacent pre-forms are joined to each other by the back waist section of one pre-form and the front waist section of the adjacent pre-form (Figure 24; column 14, lines 1 – 32).

3. Claims 4, 8, and 15 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitz and Widlund et al. as applied in Claims 3 and 14 above, in view of Fletcher et al. (PCT US99 29704).

Regarding Claim 4, Schmitz and Widlund et al. disclose all the limitations of Claim 3, but do not specifically disclose two of the refastening surfaces are located on the exterior surface of the front waist section and two of the refastening surfaces are located on the body-contacting surface of the back waist section. However, Fletcher et al. disclose the above configuration (Figures 2 and 3; page 20, line 22 – page 21, line 6). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to place the refastening surfaces in a number of configurations along the waist section, including placement as discussed above.

Regarding Claim 8, Widlund et al. disclose a step of folding inward a portion of the longitudinal edge of a waist section prior to jointly rotating the gripping means (Figure 12). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to fold inward a portion of the longitudinal edge of the front waist section, as disclosed by the fastener configuration of Fletcher et al., prior to jointly rotating the gripping means so that

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the front and rear side parts thereof are placed edge-to-edge, and the coacting parts (37,38) are pressed firmly against one another (column 8, lines 14 – 27).

Regarding Claims 15 and 16, Fletcher et al. disclose mating hook material (82 and 83) located on the exterior surface of the front waist section, and the areas of loop material (84 and 85) located on the body-contacting surface of the back waist section (Figures 2 and 3; page 20, lines 6 – 21) and disclose mating loop material (82 and 83) located on the exterior surface of the front waist section, and the areas of hook material (84 and 85) located on the body-contacting surface of the back waist section (page 23, lines 9 – 15). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to place the hook and loop materials on either the exterior front waist section or the body-contacting back waist section since it is well known and conventional to place the refastening surfaces in a number of configurations along the waist section as alternative and equivalent embodiments.

Regarding Claims 17 and 18, Widlund et al. disclose the configuration of fasteners located on the body-contacting surface of the front waist section and fasteners located on the exterior surface of the back waist section (Figures 11 and 12) as discussed above. Fletcher et al. disclose locating the hook material and loop material irrespective of the location of the fasteners (i.e. either two loop in the front waist section and two hook in the back waist section or two hook in the front waist section and two loop in the back waist section). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to place the hook and loop materials on either the body-contacting front waist section or the exterior back waist section since it is well known and conventional to place the refastening surfaces in a number of configurations along the waist section as alternative and equivalent embodiments.

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4. Claims 6 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitz and Widlund et al. as applied in Claims 3 and 14 above, in view of Roessler et al. (U.S. Patent No. 5399219).

Schmitz and Widlund et al. disclose all the limitations of Claim 3, but do not disclose prior to cutting of the web, portions of the web which form adjacent pre-forms are joined to each other by the back waist section of one pre-form and the back waist section of the adjacent pre-form. However, Roessler et al. disclose this design (Figure 11; column 24, lines 31 – 47).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to design the web to include adjacent pre-forms joined to each other by the back waist section of one pre-form and the back waist section of the adjacent pre-form since this is a well-known and conventional design of a web for making garments as claimed.

5. Claims 9, 10, and 21 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitz and Widlund et al. as applied in Claims 3 and 14 above, in view of Johansson et al. (GB 2303045).

Regarding Claims 9, 21, and 22, Schmitz and Widlund et al. disclose all the limitations of Claim 3, but do not disclose two of the refastening surfaces located on the body-contacting surface of the front waist section comprising both hook and loop material and two of the refastening surfaces are located on the body-contacting surface of the back waist section comprising both hook and loop material. However, Johansson et al. disclose two of the refastening surfaces located on the body-contacting surface of the front waist section comprising both hook and loop material and two of the refastening surfaces located on the body-contacting surface of the back waist section comprising both hook and loop material (Figures 4 and 5; page

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17, line 24 – page 18, line 20). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to place two of the refastening surfaces located on the body-contacting surface of the front waist section comprising both hook and loop material and two of the refastening surfaces are located on the body-contacting surface of the back waist section comprising both hook and loop material to avoid peeling forces and for a simplified manufacturing process (page 17, line 33 – page 18, line 5).

Regarding Claims 10 and 23, Widlund et al. disclose a step of folding inward toward the exterior surface of the pre-form a joined superimposed refastening surfaces and bonding the joined superimposed refastening surfaces to the exterior surface of the pre-form (Figure 5A; column 3, line 66 – column 4, line 11). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to fold inward toward the exterior surface of the pre-form a joined superimposed refastening surface and bond the joined superimposed refastening surfaces to the exterior surface of the pre-form so that the abutted fasteners are not sticking out of the diaper, thereby allowing the fasteners to lay flat against the diaper.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johnson et al. (U.S. Patent No. 5662638) discloses another example of bonding joined superimposed fasteners to a surface of a diaper so that the fasteners lay flat against the diaper.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle A Lazor whose telephone number is 703-305-7976.

The examiner can normally be reached on Mon - Thurs 6:30 - 4:00, Fridays 6:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 703-308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



MAL



RICHARD CRISPINO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700